

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS SANTIAGO,

Plaintiff,

v.

GMAC MORTGAGE GROUP, INC.,
GMAC RESIDENTIAL HOLDING
CORP., and GMAC MORTGAGE
CORPORATION,

Defendants.

Civil Action No. 02-4048

**DEFENDANTS' MOTION FOR LEAVE
TO FILE A SUPPLEMENTAL BRIEF**

Defendants GMAC Mortgage Group, Inc., GMAC Residential Holding Corp., and GMAC Mortgage Corporation (collectively "Defendants"), by their undersigned counsel, respectfully move the Court for leave to file a Supplemental Brief in Further Support of their Motion to Dismiss Plaintiff's Complaint. In support thereof, Defendants state the following:

1. This is a putative class action lawsuit involving allegations that Defendants violated section 8(b) of RESPA.
2. Defendants' Motion to Dismiss Plaintiff's Complaint is currently pending.
3. In their Motion, Defendants argued that a clear and decisive line of judicial authority rejects the interpretation of section 8(b) upon which Plaintiff relies.
4. No court in this Circuit has decided the precise issue presented by this Motion.

5. In response, Plaintiff made reference to several pending Circuit Court appeals to suggest that the Seventh Circuit – the leading contributor to section 8(b) jurisprudence – might reverse its position.

6. The case of Krzalic v. Republic Title Company was one of the decisions referenced by Plaintiff.

7. On December 26, 2002, after the parties had submitted their briefs, the Seventh Circuit issued its opinion in Krzalic.

8. Because of the importance of the Krzalic decision to the issues presented by Defendants' Motion, and in the interest of providing the Court with a full analysis of all authority relevant to these issues, Defendants respectfully request leave to file the short supplemental brief filed simultaneously with this Motion.

9. The interests of justice are furthered by making all relevant authority available to the Court – authority which was not available at the time the parties' submitted their briefs.

WHEREFORE, for these reasons, Defendants respectfully request that this Court grant Defendants leave to file the supplemental brief and enter the preceding proposed form of Order.

Respectfully submitted,

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GMAC Mortgage Group, Inc., GMAC
Residential Holding Corp., and GMAC
Mortgage Corporation.

Dated: December 31, 2002

CERTIFICATE OF SERVICE

I certify that I caused to be served on this date a true and correct copy of the foregoing Defendants' Motion for Leave to File Supplemental Brief upon the following counsel in the manner noted below:

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Dated: December 31, 2002

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FRANCIS SANTIAGO,

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ORDER

AND NOW, this day of , 2003, upon consideration of Defendants' Motion for Leave to File a Supplemental Brief based on judicial authority not available at the time of filing its Motion to Dismiss, and any response thereto, it is hereby ORDERED and DECREED that the Motion is GRANTED. Defendants' supplemental brief shall be deemed filed *nunc pro tunc* December 31, 2002.

BY THE COURT:

James Knoll Gardner, J.